

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
U.S. DEPARTMENT OF STATE,)	
The Executive Office)	
Office of the Legal Adviser, Suite 5.600)	
600 19 th Street NW)	
Washington, DC 20522,)	
)	
Defendant.)	
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COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against the U.S. Department of State (“Defendant”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the

responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of State is an agency of the United States Government headquartered at 2201 C Street NW, Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On May 20, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

1. **All records of communication, including but not limited to emails and text messages, sent to or from former Deputy Assistant Secretary of State for the Bureau of European and Eurasian Affairs Kathleen Kavalec containing the terms “Hillary”, “Clinton”, “Trump”, “Steele”, “Democrat”, “Democrats”, “Republican”, and/or “Republicans”.**
2. **All records of communication, including but not limited to emails and text messages, sent between former Deputy Assistant Secretary of State Kavalec and any of the following individuals: Associate Deputy Attorney General Bruce Ohr; Department of Justice contractor Nellie Ohr; State Department Special Envoy Jonathan Winer; and/or Justice Department official Lisa Holtyn.**
3. **All notes, reports, memoranda and other written records related to any meetings held between Ms. Kavalec and British national Christopher Steele.**
4. **Calendar and day planner entries for Ms. Kavelec.**

The time frame for the requested records was identified as “January 2015 through the present.”

6. By letter dated August 2, 2019, Defendant acknowledged receipt of Plaintiff’s request on May 29, 2019. Defendant’s acknowledgment letter invoked FOIA’s ten-day extension of time provision for issuing a determination.

7. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii) notified Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is in violation of FOIA.

10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with it.

11. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's request within the time limits set by FOIA. Accordingly, Defendant's determination was due by July 11, 2019 at the latest.

12. Because Defendant failed to make a final determination on Plaintiff's request within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorneys' fees and other

litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: August 27, 2019

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

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